

AMENDED IN SENATE JULY 3, 2003

AMENDED IN SENATE JUNE 26, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 1666**

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**Introduced by Assembly Member Cogdill  
(Coauthors: Assembly Members Chavez and Jerome Horton)**

February 21, 2003

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An act to amend Sections 30142, 30168, 30181, and 30182 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1666, as amended, Cogdill. Cigarettes and tobacco products.

The Cigarette and Tobacco Products Tax Law requires distributors and wholesalers of cigarette and tobacco products to be licensed by the State Board of Equalization. The Cigarette and Tobacco Products Tax Law also requires a tax imposed by that law with respect to distributions of cigarettes to be paid by distributors through the use of stamps or meter register settings, and requires that these stamps or meter register settings be affixed to each package of cigarettes sold.

Existing law requires all distributors of cigarette and tobacco products that are required to be licensed by the State Board of Equalization to furnish a \$1,000 security deposit. Existing law requires a distributor that defers payments for stamps or meter register settings to furnish a security deposit of at least 70% of, but not more than twice



the amount of, stamps and meter register settings for which payment is deferred.

This bill would reduce the amount of the security deposit required to be provided by a distributor that defers payments for stamps or meter register settings and elects to make those payments on a twice-monthly basis, as authorized by this bill, to an amount that is at least 50% of, but not more than twice the amount of, stamps and meter register settings for which payment is deferred.

Existing law requires distributors that defer payments for stamps and meter register settings to remit the payments on or before the 25th day of the month following the month in which the payments were deferred.

This bill would require distributors that defer payments for stamps and meter register settings to elect to remit those payments either on a monthly or on a twice-monthly basis.

Existing law requires distributors of cigarettes and tobacco products to file returns for, and remit the taxes collected on, the distributions of cigarettes and tobacco products on or before the 25th day of the month following the month during which the cigarettes or tobacco products were distributed.

This bill would require distributors of cigarettes and tobacco products to elect to file those returns and remit those taxes, *as specified*, either on a monthly basis or on a twice-monthly basis.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 30142 of the Revenue and Taxation  
2 Code is amended to read:  
3 30142. (a) The board shall fix the amount of the security  
4 required of any distributor and may increase or reduce the amount  
5 at any time. A minimum security in the amount of one thousand  
6 dollars (\$1,000) shall be furnished by every distributor required to  
7 be licensed. ~~¶~~  
8 (b) *If* a distributor desires to defer payments for stamps or meter  
9 register settings, as provided in Article 2 (commencing with  
10 ~~Section 30166) of Chapter 3.5, and elects, under Section 30168,~~  
11 ~~to make those deferred payments on a twice-monthly basis, the~~

~~board shall require a security equal to not less than 50 percent~~  
Section 30166) of Chapter 3.5, the board shall require a security  
as follows:

(1) If a distributor elects, under Section 30168, to make  
payments on a monthly basis, the board shall require a security  
equal to not less than 70 percent of the amount and no more than  
twice the amount, as fixed by the board, of the distributor's  
purchases of stamps and meter register settings for which payment  
may be deferred.

(2) If a distributor elects, under Section 30168, to make  
payments on a twice-monthly basis, the board shall require a  
security equal to not less than 50 percent of the amount and no  
more than twice the amount, as fixed by the board, of the  
distributor's purchases of stamps and meter register settings for  
which payment may be deferred.

SEC. 2. Section 30168 of the Revenue and Taxation Code is  
amended to read:

30168. (a) Amounts owing for stamps and meter register  
settings purchased on the deferred-payment basis in any calendar  
month shall be due and payable on a monthly basis, in the manner  
elected pursuant to subdivision (b), during the month following  
the calendar month in which the stamps and meter register settings  
were purchased. Payment shall be made by a remittance payable  
to the board.

(b) A distributor shall elect to make the payment required by  
subdivision (a) on either a monthly or a twice-monthly basis. An  
election made pursuant to this subdivision shall remain in effect for  
at least one year from the date the election is made. If the board  
finds that good cause exists for a distributor's inability to maintain  
the election for the full year, the board shall authorize the  
distributor to make a new election, as otherwise authorized by this  
subdivision, prior to the expiration of the one-year period  
following the prior election.

(1) If a distributor elects to make the payment required by  
subdivision (a) on a monthly basis, the distributor shall remit the  
payment on or before the 25th day of the month following the  
month in which the stamps and meter register settings were  
purchased.

(2) If a distributor elects to make the payment required by  
subdivision (a) on a twice-monthly basis, the distributor shall

1 make two remittances during the month following the month in  
2 which the stamps and meter register settings were purchased. The  
3 first monthly remittance shall be made on or before the 5th day of  
4 the month for those purchases of stamps and meter register settings  
5 that were made between the first day and the 15th day of the  
6 preceding month. The second monthly remittance shall be made  
7 on or before the 25th day of the month for those purchases of  
8 stamps and meter register settings that were made between the 16th  
9 day and last day of the preceding month.

10 SEC. 3. Section 30181 of the Revenue and Taxation Code is  
11 amended to read:

12 30181. (a) When any tax imposed upon cigarettes under  
13 Article 1 (commencing with Section 30101), Article 2  
14 (commencing with Section 30121), and Article 3 (commencing  
15 with Section 30131) of Chapter 2 is not paid through the use of  
16 stamps or meter impressions, the tax shall be due and payable  
17 monthly on or before the 25th day of the month following the  
18 calendar month in which a distribution of cigarettes occurs, or in  
19 the case of a sale of cigarettes on the facilities of a common carrier  
20 for which the tax is imposed pursuant to Section 30104, the tax  
21 shall be due and payable monthly on or before the 25th day of the  
22 month following the calendar month in which a sale of cigarettes  
23 on the facilities of the carrier occurs.

24 (b) Each distributor of tobacco products shall file a return in the  
25 form as prescribed by the board, that may include, but not be  
26 limited to, ~~electronic media for each calendar month.~~ *media,*  
27 *respecting his or her distributions of tobacco products and their*  
28 *wholesale cost during the preceding month, and any other*  
29 *information as the board may require to carry out this part.* The  
30 return shall be filed with the board, in the manner elected by the  
31 distributor pursuant to subdivision (c), together with a remittance  
32 payable to the board, of the amount of tax, if any, due under Article  
33 2 (commencing with Section 30121) or Article 3 (commencing  
34 with Section 30131) of Chapter 2 for that period. To facilitate the  
35 administration of this part, the board may require the filing of the  
36 returns for longer than monthly periods. Returns shall be  
37 authenticated in a form or pursuant to methods as may be  
38 prescribed by the board.

39 (c) A distributor shall elect to file the return and to make the  
40 payment required by subdivision (b) on either a monthly or a



twice-monthly basis. *An election made pursuant to this subdivision shall remain in effect for at least one year from the date the election is made. If the board finds that good cause exists for a distributor's inability to maintain the election for the full year, the board shall authorize the distributor to make a new election, as otherwise authorized by this subdivision, prior to the expiration of the one-year period following the prior election.*

(1) If a distributor elects a monthly basis, the distributor shall file a return and remit the payment on or before the 25th day of the month following the month in which the tobacco products were distributed.

(2) If a distributor elects a twice-monthly basis, the distributor shall file two returns and make two remittances during the month following the month in which the tobacco products were distributed. The first monthly return shall be filed and the first remittance shall be made on or before the 5th day of the month for those distributions that occurred between the first day and the 15th day of the preceding month. The second monthly return shall be filed and the second remittance made on or before the 25th day of the month for those distributions that occurred between the 16th day and last day of the preceding month.

SEC. 4. Section 30182 of the Revenue and Taxation Code is amended to read:

~~30182. (a) On or before the 25th day of each month, every distributor shall file~~

*30182. (a) Except as provided in subdivision (b), every distributor shall file, on or before the 25th day of each month, a report in the form as prescribed by the board, that may include, but not be limited to, electronic media respecting his or her distributions of cigarettes and purchases of stamps and meter register units during the preceding month and any other information as the board may require to carry out this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.*

~~(b) Every distributor shall file a return, in the manner elected by the distributor pursuant to subdivision (c), in the form as prescribed by the board, that may include, but not be limited to, electronic media, respecting his or her distributions of tobacco products and their wholesale cost during the preceding month, and any other information as the board may require to carry out this~~

1 ~~part. Returns shall be authenticated in a form or pursuant to~~  
2 ~~methods as may be prescribed by the board.~~

3 ~~(c) A distributor shall elect to file the return required by~~  
4 ~~subdivision (b) on either a monthly or a twice-monthly basis.~~

5 ~~(1) If a distributor elects to file a return on a monthly basis, the~~  
6 ~~distributor shall file a return on or before the 25th day of the month~~  
7 ~~following the month during which the tobacco products were~~  
8 ~~distributed.~~

9 ~~(2) If a distributor elects to file a return on a twice-monthly~~  
10 ~~basis, the distributor shall file two returns during the month~~  
11 ~~following the month during which the tobacco products were~~  
12 ~~distributed. The first monthly return shall be filed on or before the~~  
13 ~~5th day of the month for those distributions of tobacco products~~  
14 ~~that occurred between the first day and the 15th day of the~~  
15 ~~preceding month. The second monthly return shall be filed on or~~  
16 ~~before the 25th day of the month for those distributions of tobacco~~  
17 ~~products that occurred between the 16th day and last day of the~~  
18 ~~preceding month.~~

19 ~~(b) Every distributor that elects, pursuant to Section 30168, to~~  
20 ~~make deferred payments on a twice-monthly basis shall file two~~  
21 ~~reports in the form as prescribed by the board, that may include,~~  
22 ~~but not be limited to, electronic media, respecting his or her~~  
23 ~~distributions of cigarettes and purchases of stamps and meter~~  
24 ~~register units during the month following the month in which the~~  
25 ~~distribution occurred and the stamps and meter register settings~~  
26 ~~were purchased, and any other information as the board may~~  
27 ~~require to carry out this part. The first monthly report shall be filed~~  
28 ~~on or before the 5th day of the month for those distributions of~~  
29 ~~cigarettes and purchases of stamps and meter register settings that~~  
30 ~~were made between the first day and the 15th day of the preceding~~  
31 ~~month. The second monthly report shall be filed on or before the~~  
32 ~~25th day of the month for those distributions of cigarettes and~~  
33 ~~purchases of stamps and meter register settings that were made~~  
34 ~~between the 16th day and last day of the preceding month.~~

35 ~~(c) Reports shall be authenticated in a form, or pursuant to,~~  
36 ~~methods as may be prescribed by the board.~~

37 SEC. 5. This act is an urgency statute necessary for the  
38 immediate preservation of the public peace, health, or safety  
39 within the meaning of Article IV of the Constitution and shall go  
40 into immediate effect. The facts constituting the necessity are:

1     In view of the fact that the State of California is experiencing a  
2     fiscal crisis, and in order to improve compliance with state tax  
3     laws, it is necessary that this act take effect immediately.

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